IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 68 OF 1992

The State of Maharashtra ..Appellants

versus

Atmaram Narayan Shetye ..Respondent

Mr. B. R. Patil, A.G.P. for the Appellants - State.

Mr. Rajiv Patil for the Respondent

WITH

FIRST APPEAL NO. 136 OF 1992

Atmaram Narayan Shetye ..Appellant

versus

The State of Maharashtra ..Respondents

Mr. Rajiv Patil for the Appellant.

Mr. B.R. Patil, A.G.P. for the Respondents - State.

CORAM : D. G. DESHPANDE,J.

DATE : 28TH MARCH,2005

ORAL ORDER :

1. Heard learned AGP for the State in First Appeal No. 68 of 1992 and First Appeal No. 136 of 1992 and counsel for the claimant i.e. Respondent

in First Appeal No. 68 of 1992 and Appellant in First Appeal No. 136 of 1992.

2. Land situated at Village Nawade of the claimant was acquired by notification under Section 4 dated 3.2.1970. SLAO awarded Rs.3/- per sq. meter. Reference Court enhanced it to Rs.22/- per sq. meter though he had claimed Rs.40/- per sq. meter and therefore being aggrieved by that order both the State and the Claimant have filed their respective Appeals.

3. State challenges the enhancement whereas the claimant contends that he is entitled to more compensation.

4. Learned AGP relied upon the judgment of Division Bench of this Court (S. Radhakrishnan & S. J. Vazifdar, JJ.) in two appeals, viz. **First Appeal No. 423 of 1996 and First Appeal No. 1534 of 1996, delivered on 16th September, 2004,** from Village Nawade. In that case the distance of the acquired land was 200 sq. meters from Bombay Pune National Highway, the court therefore awarded Rs.25/- per sq. meter. Though the State has challenged enhancement of the compensation but when counsel for the claimant pointed out that on the basis of the report of Expert Jeevan Kulkarni,

proved and brought on record, that the acquired land in this case is just abutting Bombay Pune National Way, the learned AGP did not press for further reduction of compensation. He however contended that there was no case for enhancement of compensation any more.

5. However, it appears from the aforesaid judgment of the Division Bench that when acquired land in that matter was at the distance of 200 sq. meters from Bombay Pune National Highway, compensation that was awarded by Division Bench was Rs.25/- per sq. meter. From the report and evidence of expert Jeevan Kulkarni the acquired land in this case is abutting Bombay Pune National Highway, therefore, Rs.30/- would be the proper compensation in this case. Hence, the order:

ORDER

. First Appeal No. 68 of 1992 filed by the State is dismissed.

. First Appeal No. 136 of 1992 is partly allowed. The order of the Reference Court is modified and consequently the claimant will be entitled to compensation at the rate of Rs.30/- per sq. meter with proportionate increase in the solatium and other benefits. No order as to costs

of these Appeals.

28.03.2005 (D.G. DESHPANDE, J.)